

REMARKS

The specification has been amended to update the disclosure of related, co-pending applications. Claims 1, 28, 29, 31, and 35 have been amended. Claims 1-5, 7-33, and 35 remain in the application.

Anticipation by Jusiak

Claims 1-5, 7-10, 13-17, 19, 20, and 27 are rejected for anticipation by Jusiak, which is of record. The rejection is respectfully traversed for the following reasons.

With respect to claim 1, a fluid warming cassette includes, among other elements, a “planar stiffener near the proximal end, separate from the first and second rails”. In Jusiak, when the ear-like projections 202 are portions of the tongue 20, they are not located, with the tongue, at the proximal end of Jusiak’s cassette. As is clear from FIG. 5I, the only figure showing a planar stiffening element (the tongue 20), the tongue 20, with its ear-like projections, is located toward the *distal* end 14 of the cassette. For reasons set forth in Jusiak at col. 4, line 50-col. 5, line 26 it is clear that the tongue 20 cannot be located at the proximal end without requiring a substantial redesign of the cassette. Further, the projections 202 also may be “positioned on” the rails 30a,b as described at col. 5, lines 32-34 and as shown in FIGS. 5J and 9. However, in these cases, nothing in Jusiak explicitly describes the projections 202 as being “separate from the rails”. Indeed, the projections 202 must maintain mechanical integrity with, and cannot be separate from, the rails if they are to align the rails in the aperture of the warming device. For these reasons, Jusiak does not inherently include or suggest a planar stiffener at the proximal end of a warming cassette. Manifestly, Jusiak omits any description of a warming cassette with a planar stiffener at its proximal end which is separate from the rails.

Further, claim 1 has been amended to recite that the planar stiffener is located “between the rails” and to further limit the extent of the planar stiffener between the rails to being “for substantially the width of the fluid container”. The amendment is supported in the specification in FIGS. 1-3 and does not introduce new matter. These limitations are also not described or illustrated in Jusiak.

Claims 29-31 are rejected for anticipation by Jusiak on the contention that Jusiak teaches a warming cassette with a handle portion “formed near a proximal end of the fluid container by sandwiching a planar piece in the fluid container (col. 4, lines 37-41).” The cited section describes attachment of the tongue 20 to the cassette. To the extent that the tongue is included in a handle portion, the handle portion is located, with the

tongue, toward the distal end, not the proximal end of the warming cassette. For the reasons given above, Jusiak does not inherently include or suggest a tongue at the proximal end of a warming cassette. Thus, Jusiak omits any description of a warming cassette that includes a handle portion “near a proximal end of the fluid container and including a planar piece sandwiched in the fluid container”.

Further, claim 29 has been amended to recite that the planar stiffener is located “between the rails” and to further limit the extent of the planar stiffener between the rails to being “for substantially the width of the fluid container”. The amendment is supported in the specification in FIGS. 1-3 and does not introduce new matter. These limitations are also not described or illustrated in Jusiak.

Obviousness over Jusiak, et al.

Claim 28 is rejected for obviousness over Jusiak in view of Tousignant on the contention that Jusiak “discloses the device substantially as claimed” except for the construction of the ports. However, claim 28 is drawn to a fluid warming cassette with a planar stiffener near the proximal end, separate from the first and second rails, which Jusiak fails to teach for reasons given above. To the extent that the tongue 20 is considered to be equivalent to the planar stiffener recited in claim 28, it is respectfully pointed out that the tongue 20 is located, positioned, or disposed “toward the distal end 14” of Jusiak’s warming cassette, not “near the proximal end”. Jusiak gives no rationale or motivation for changing the position of the tongue or for adding another tongue to the proximal end. In fact, the applicant submits that there is no way to place a planar stiffener like the tongue 20 in the proximal end of Jusiak’s warming cassette without rendering the cassette unfit for its intended purpose or requiring modification of its operation. See MPEP 2143, et seq.

Further, claim 28 has been amended to recite that the planar stiffener is located “between the rails” and to further limit the extent of the planar stiffener between the rails to being “for substantially the width of the fluid container”. The amendment is supported in the specification in FIGS. 1-3 and does not introduce new matter. These limitations are also not described or illustrated in Jusiak.

Claim 35 is rejected for obviousness over Jusiak in view of Tousignant, and further in view of Kujawski on the contention that Jusiak in view of Tousignant “discloses the kit substantially as claimed”. However, claim 35 is drawn to a kit including a fluid warming cassette with a planar stiffener near the proximal end, separate from the first and second rails, which Jusiak fails to teach for reasons given above. Furthermore, to

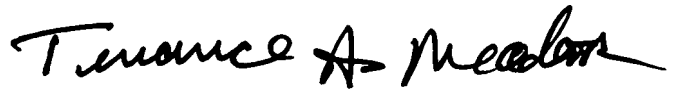
the extent that the tongue 20 is considered to be equivalent to the planar stiffener recited in claim 35, it is respectfully pointed out that the tongue 20 cannot be relocated to, or duplicated at, the proximal end for reasons given above.

Further, claim 35 has been amended to recite that the planar stiffener is located "between the rails" and to further limit the extent of the planar stiffener between the rails to being "for substantially the width of the fluid container". The amendment is supported in the specification in FIGS. 1-3 and does not introduce new matter. These limitations are also not described or illustrated in Jusiak.

The applicants incorporate further remarks regarding these rejections and the other rejections of dependent claims from the previously-submitted Amendments in this application.

The claims of this application are therefore in condition for allowance, early notice of which is earnestly solicited.

Respectfully submitted,



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Date: *August 22, 2007*

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